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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/913,698	11/27/2001	William B.S. Pressly Sr.	14112-187003	2662

7590

09/09/2003

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EXAMINER

DESANTO, MATTHEW F

ART UNIT PAPER NUMBER

3763

DATE MAILED: 09/09/2003

19

Please find below and/or attached an Office communication concerning this application or proceeding.

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# Office Action Summary

Application No.

09/913,698

Applicant(s)

PRESSLY SR. ET AL.

Examiner

Matthew F DeSanto

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13, 15 and 16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13, 15 and 16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 1 recites the limitation "said needle assembly" in paragraph f. There is insufficient antecedent basis for this limitation in the claim.

4. The examiner would also like to note that claim 1 is unclear with regards to the support member having a first and second end wherein the first end engages said base and a second end engages an edge of said needle assembly. The examiner interprets said base as the base of the needle hub, therefore the examiner is confused on how the second end is engaging a different structure than the first end.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

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only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-4, 6-12, 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Redfern et al. (USPN 5,843,034).

Redfern et al. discloses an interchangeable needle, an elongated barrel, a movable base, a spring and at least one support member, as well as a retainer catches, and an integral sacrificial seal on the base. (Figures 1-12 and entire reference)

Redfern et al. also discloses a method of operating of the syringe. (Figures 1-12 and entire reference)

7. Claims 1-13, 15, 16 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Pressly, Sr. et al. (USPN 5,613,952).

Pressly, Sr. et al. discloses an interchangeable needle, an elongated barrel, a movable base, a spring and at least one support member, as well as a retainer catches, and an integral sacrificial seal on the base. (Figures 1-48 and entire reference)

Pressly, Sr. et al. also discloses a method of operating of the syringe as well as a method of producing the product. (Figures 1-48 and entire reference)

### ***Response to Arguments***

8. Applicant's arguments filed 7/6/03 and 8/4/03 have been fully considered but they are not persuasive.

With regards to the remarks made in view of Pressly et al. the examiner disagrees with mainly because of the confusion with the language and the 112 Rejection. The examiner is confused with the new limitations added and thus the rejections still stand. If the applicant clears up the discrepancies then the examiner will

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withdraw the rejections, but the examiner does not understand the new amended language and does not see how support members will function as claimed. The examiner would also suggest that more language is added that clarifies the overall invention and how certain limitations are related. One type of suggestion that would help to clear up some of the confusion and relate some of the structural limitations is that "the interchangeable needle has a base and needle hub in which the spring is surrounding, " or something towards that respect. The examiner still believes that Pressly et al. still reads on the claimed invention because the support member is shown in Figures 1, 2, & 18-20 with the support member being reference number 31; and in Figures 36-41 with the support member being reference number 111.

With regards to Redfern et al. the examiner discloses that reference number 28 are the "movable base" because this structure moves to hold and release the needle hub, and that reference number 58, 66 are the support members. Since no direction is given with regards to the movable base, just that the base is capable of moving this interpretation satisfies the claimed invention.

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**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew F DeSanto whose telephone number is 1-703-305-3292. The examiner can normally be reached on Monday-Friday 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 1-703-308-3552. The fax phone numbers for the organization where this application or proceeding is assigned are 1-703-872-9302 for regular communications and 1-703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 1-703-308-0858.



Matthew DeSanto  
Art Unit 3763  
September 5, 2003



MICHAEL J. HAYES  
PRIMARY EXAMINER